

DEPARTMENT OF STATE REVENUE

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 95-0397 IT
Gross Income Tax — Grain Dealers/Segregation of Receipts
Tax Administration — Negligence Penalty
For Tax Periods: 1990 Through 1992

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ISSUES

I. Gross Income Tax — Grain Dealers/Segregation of Receipts

Authority: IC 6-2.1-1-5, IC 6-2.1-2-3, IC 6-2.1-2-7
45 IAC 1-1-75, 45 IAC 1-1-115
Storen v. J.D. Adams Manufacturing Co., 212 Ind. 342, 7 N.E.2d 941 (1937)

Taxpayer protests the Department's determination that receipts from the manufacture and sale of animal feed are not eligible for gross earnings treatment. Additionally, taxpayer protests the segregation of receipts from those that qualify for gross earnings treatment.

II. Tax Administration — Negligence Penalty

Authority: IC 6-8.1-10-2.1
45 IAC 15-11-2

Taxpayer protests the imposition of a ten-percent (10%) negligence penalty.

STATEMENT OF FACTS

Taxpayer is a privately owned business with headquarters in New York and regional offices located throughout the United States. Taxpayer's Indiana facilities include a grain operation at

one location, the manufacturing and sales of animal and poultry feed at two other locations, and a retail store operation (sold June 30, 1992) at yet another location.

Taxpayer operates mainly as a grain dealer; in that capacity taxpayer receives, processes, stores and markets whole grain and soybeans. Taxpayer also derives income from many other sources - including the manufacture and sale of animal and poultry feed (animal feed).

I. Gross Income Tax — Grain Dealers/Segregation of Receipts

DISCUSSION

For the tax periods at issue, taxpayer used the gross earnings method to calculate its gross income tax. In its initial protest, taxpayer argued that as one integrated business, with substantial operations as a grain dealer, it should be allowed to characterize all of its income as “gross earning[s] that are derived from the sale of the whole grain or soybeans.” The Department, in Letter of Findings 95-0397 issued February 23, 1998, disagreed. The Department determined that taxpayer should have segregated its earnings derived from the animal feed operation from those earned by the taxpayer as a grain dealer. Additionally, because the segregated income was not eligible for gross earnings treatment, the Department also determined that this income – i.e., that derived from the animal feed operation – should be taxed, for gross income tax purposes, at the low rate.

After reviewing Letter of Findings 95-0397, taxpayer timely requested, and the Department granted, a rehearing on the issues addressed. Specifically, taxpayer protested the Department’s findings that taxpayer should have segregated its income derived from disparate sources, that the grain dealer methodology should not have been used to compute Indiana gross income for income derived from animal feed operations, and that the imposition of the ten percent (10%) negligence penalty was justified. During the intervening nineteen (19) months, taxpayer has failed to respond to the Department’s repeated invitations to schedule a date and time for the requested rehearing. Consequently, the Department now reaffirms the findings contained within Letter of Findings 95-0397 in which the Department upheld the gross income assessments.

FINDING

Taxpayer’s protest is denied

II. Tax Administration — Negligence Penalty

DISCUSSION

For the aforementioned reasons, the Department also reaffirms the findings contained within Letter of Findings 95-0397 in which the Department upheld the imposition of the ten percent (10%) negligence penalty.

FINDING

Taxpayer's protest is denied